

# Agenda

## Item #5



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: July 14, 2008

Re: Report on Qualifications for Gubernatorial Candidates Seeking Maine Clean Election Act Funding

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On March 20, 2008, the Legal and Veterans Affairs (LVA) Committee requested in the attached memo that I draft a report to the committee regarding the sufficiency of the current qualifying requirements for gubernatorial candidates seeking public campaign funding under the Maine Clean Election Act (MCEA). The request states that the report should consider:

- Sufficiency of current qualifying requirements for gubernatorial candidates seeking MCEA funding;
- The financial demands on the Maine Clean Election Act Fund relative to the revenue received for the program;
- Qualifying requirements for gubernatorial candidates under MCEA compared to those of similar public financing programs in other states;
- The anticipated impact of permitting the collection of qualifying contributions via the internet; and
- Discussion of options for amending current requirements for MCEA gubernatorial candidates including eliminating funding of gubernatorial candidates from the program.

The LVA Committee did *not* request that the Commission recommend any amendments to the law. Rather, it requested that the report discuss *options* for amending the requirements. If, however, there is any consensus viewpoint or recommendation from the members of the Commission on any topic included in the report, I am sure that the LVA Committee would be eager to receive it. The report is due by October 1, 2008.

At your June 27, 2008 meeting, the Commission held a public hearing to receive public testimony on the gubernatorial qualifications. The Commission received comments from four witnesses, and written testimony from others. The written testimony is attached for your information, and the oral comments are summarized in the draft minutes for the meeting.

The staff would be eager to receive any comments from Commission members that you would like to include in the report or to undertake any particular research you believe would be helpful to the Legislature. We would be happy to receive this information from you as part of the July 28 meeting, or privately by telephone as you think most appropriate. I will not be at the meeting, but I will listen to the audio recording.

In August, the staff hopes to meet with the witnesses who testified at the June 27 meeting when there is an opportunity for a fuller exchange of views.

Thank you.

SENATE

LISA T. MARRACHÉ, District 25, Chair  
BRUCE S. BRYANT, District 14  
DEBRA D. FLOWMAN, District 33

DANIELLE D. FOX, Legislative Analyst  
JOHANNAH OBERG, Committee Clerk



HOUSE

JOHN L. PATRICK, Rumford, Chair  
JOHN L. TUTTLE, JR., Sanford  
MICHAEL CAREY, Lewiston  
GARY W. MOORE, Standish  
PAMELA JABAR TRINWARD, Waterville  
LANCE WEDDELL, Frankfort  
JOAN M. NASS, Astor  
WRIGHT H. PINKHAM, SR.,  
Lexington Township  
MARK E. BRYANT, Windham  
STACEY A. FITTS, Pittsfield

State of Maine  
ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS

**M E M O R A N D U M**

Date: March 20, 2008

To: Jonathan Wayne, Executive Director  
Commission on Governmental Ethics and Election Practices

From: Senator Lisa Marrache, Representative John Patrick, Co-chairs  
Joint Standing Committee on Legal and Veterans' Affairs

RE: **Studying Qualifications for Maine Clean Election Act Gubernatorial Candidates**

The Joint Standing Committee on Legal and Veterans' Affairs requests that as Executive Director of the Commission on Governmental Ethics and Election Practices, you submit to the committee no later than October 1, 2008, a report regarding Maine Clean Election Act Gubernatorial Candidates. The report should consider the following:

- Sufficiency of current qualifying requirements for gubernatorial candidates seeking MCEA campaign funding;
- The financial demands on the Maine Clean Election Act Fund relative to the revenue received for the program;
- Qualifying requirements for gubernatorial candidates under MCEA compared to those of similar public financing programs in other states;
- The anticipated impact of permitting the collection of qualifying contributions via the internet; and
- Discussion of options for amending current requirements for MCEA gubernatorial candidates including eliminating funding of gubernatorial candidates from the program.

During the course of your study we recommend that you invite comments from the public to be received at an advertised public hearing.

Thank you for your time and consideration of this matter and we look forward to your report.

cc: Members, Joint Standing Committee on Appropriations and Financial Affairs  
G:\COMMITTEES\LVA\123rd 2nd Session\Wayne memo on MCEA Gov S.doc



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commission Members and Counsel  
From: Jonathan Wayne, Executive Director  
Date: June 17, 2008  
Re: Maine Clean Election Act Qualifications for Governor

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On March 20, 2008, the Legal and Veterans Affairs Committee requested in the attached memo that I draft a report to the committee regarding the sufficiency of the current qualifying requirements for gubernatorial candidates seeking campaign funding under the Maine Clean Election Act (MCEA). The report is due by October 1, 2008. The committee recommended that the Ethics Commission hold a public hearing to receive comments from the public. On June 3, I mailed out a notice that the Commission would hold a public hearing to receive public comments at the June 27 meeting. To date, the only written comments received are from Sen. Peter Mills (attached).

### **History of Maine Clean Election Act in Gubernatorial Elections**

The state has held two elections for Governor in which MCEA funding has been available. In the 2002 gubernatorial elections, two candidates received MCEA funding:

- Jonathan Carter
- Hon. James Libby (primary election only)

In 2006, four candidates for Governor qualified for public funding under the Maine Clean Election Act:

- Hon. Chandler E. Woodcock
- Hon. S. Peter Mills (primary election only);
- Pat LaMarche; and
- Hon. Barbara E. Merrill

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

In addition, two other candidates in 2006, John Michael and David Jones, qualified for the ballot as gubernatorial candidates and collected a significant number of qualifying contributions. Both Mr. Michael and Mr. Jones came very close to qualifying for public funding, but did not collect the required number of valid qualifying contributions.

### **2007 Legislation**

In 2007, a number of bills were submitted to the Legislature that would modify the qualifying procedures for gubernatorial or legislative candidates or both. Among these was a bill drafted by the Commission, which proposed requiring gubernatorial candidates to collect at least \$15,000 in seed money contributions from Maine residents as a way for the candidates to demonstrate in-depth support. The committee did not approve this proposal. Another bill was sponsored by Senator Peter Mills (L.D. 1670), which combined the required qualifying contributions and seed money into one qualifying system.

In 2007, the Legislature did make a number of changes to the Maine Clean Election Act that would affect the gubernatorial program:

- (1) The Legislature increased the number of qualifying contributions required for MCEA funding from 2,500 to 3,250, thereby making it 30% harder to qualify.
- (2) The Legislature changed the timing of the payments which candidates for Governor receive so that more funds are received in June of the election year.
- (3) The Legislature required the Commission to audit the campaigns of candidates for Governor who receive Maine Clean Election Act funding and to meet with them early in the campaign to discuss audit requirements.

### **Legislative Expressions of Concern About the Cost of the Gubernatorial Program**

In the 2007 and 2008 legislative session, I testified before the Appropriations Committee on several occasions. I received concerned questions about the cost of the gubernatorial portion of the program. For example, in March 2007, Sen. Karl Turner requested that the Commission make a recommendation on whether the state should terminate the gubernatorial program. The Commission declined to make that recommendation.

### **Genesis of Committee's Request**

On Sunday, March 16, 2008, I appeared before the Appropriations Committee and was asked again to provide certain information about savings to the state by eliminating the gubernatorial program. One or two days later, I met with Representative John Patrick, the House Chair of the Legal and Veterans Affairs Committee. I asked him whether it would be helpful for the committee if I were to write a report regarding the gubernatorial program, including the current qualifications and the cost of the program. He was quite positive, and invited me to discuss the proposal with the entire committee. On March 20, 2008, the committee requested that I write the report.

*123rd Legislature*  
*Senate of*  
*Maine*  
*Office of the President*

Item: 5  
June 27, 2008

*Beth Edmonds*  
*President of the Senate*  
3 State House Station  
Augusta, ME 04333-0003  
(207) 287-1500  
Fax (207) 287-5862

June 27, 2008

Maine Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, Maine 04333

Dear Commission Members:

Thank you for providing the opportunity to comment on the Maine Clean Elections law and, in particular, the program for gubernatorial candidates.

I am proud to have been involved with this landmark citizen initiative from the very beginning. As someone who worked on the referendum in the early 1990s and subsequently ran as a Clean Elections candidate, I am committed to a strong, viable public financing system for both the legislative and gubernatorial elections in Maine. The Maine Clean Elections Act (MCEA) is a model for the nation and I would urge the Commission to avoid making any recommendations that would undermine the intent of the law and the will of the voters.

The qualifying process for gubernatorial candidates has already been the subject of much debate and analysis, and substantial changes were made by the 123<sup>rd</sup> Legislature. As you know, the qualifying bar for gubernatorial candidates was raised from 2,500 to 3,250 qualifying contributions -- a 30 percent increase over 2006. In addition, other policy changes were made last year to ensure the integrity and viability of the gubernatorial system. The Ethics Commission now has clear authority to decertify candidates, the distribution scheme for gubernatorial candidates puts more money up front and less in matching funds, new protections are in place to make sure qualifying contributions can be verified, it is illegal to assist an opponent in order to get more Clean Election funding, and all gubernatorial candidates will be audited and will start their campaigns with much clearer expectations for reporting.



Ethics Commission

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June 25, 2008

As part of the MCEA, voters approved a funding formula that would have been adequate to fund elections through 2010. The 2010 shortfall exists because successive governors and legislatures have borrowed from the Maine Clean Election Fund for other state programs. However, earlier this year, legislative language was approved that requires these monies to be restored.

Maine people want a strong public financing system and that system must be available to qualified candidates who seek Maine's most important office. I urge you to allow the changes the Legislature has already made to take affect and reject any attempt to weaken or eliminate this important program.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth", with a long horizontal line extending to the right.

Beth Edmonds  
President of the Senate

## Wayne, Jonathan

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**From:** Peter Mills [pmills@mainelegal.net]  
**Sent:** Sunday, June 15, 2008 1:44 PM  
**To:** Wayne, Jonathan; Lavin, Paul  
**Subject:** Hearing on 6/27

**Attachments:** Summary SPM bill.doc



Summary SPM  
bill.doc (23 KB)

In case I can't make the Commission hearing on June 27, attached is a summary of legislation I put in last year to improve and simplify the clean election system. I have modified it to provide that incumbents receive only 90% of the money that a challenger receives.

Peter Mills

Summary of LD 1680  
An Act To Reform & Simplify the Clean Election Process  
Senator Peter Mills

This amendment to the Clean Election Act combines seed money and qualifying checks into one composite qualifying system. Qualifying contributions, which may be made by either cash or check under this bill, are defined as any amount between \$5 and \$40 payable to the candidate or the campaign. To qualify, the candidate must raise contributions in numbers and amounts as follows:

	Minimum Number of Contributors	Total Sum Required
For House:	50	\$ 500
For Senate:	150	\$ 1,500
For Governor:	2500	\$ 25,000

The number of required contributors remains the same as in present law, but the minimum amount of money required is doubled from \$5 per check to what would be an average of \$10 if only the minimum number were obtained. Each \$5 contribution still counts and contributions up to \$40 are acceptable.

Instead of turning checks into the commission, candidates will submit only the acknowledgment signed by each contributor as evidence of the payment. Candidates will retain and use for campaign purposes all amounts collected. Because seed money is abolished and blended into the system for qualifying contributions, all financial support for the candidate must come from voters within the candidate's own district.

Distributions from the Fund are reduced by one-half of the qualifying contributions collected and by 10% of any contributions that do not meet qualifying criteria. Incumbents receive 90% of full financing.

The qualifying period is amended to start on November 1 of the year prior to election for everyone, and not just for gubernatorial candidates. The qualifying period for an unenrolled candidate continues to end on June 2 of each election year. The corresponding date for a party candidate remains at April 15. The bill repeals a provision that presently allows an unenrolled gubernatorial candidate to receive a distribution equal to a primary campaign distribution if the candidate qualifies before April 15.

For unenrolled candidates, distributions are set at 40% of those available to a party candidate unless the unenrolled candidate obtains a number of contributors equal to 160% of those required for a party candidate. The total dollar sum of required contributions remains the same for party and for unenrolled candidates.

A voter is prohibited from making a qualifying contribution to more than one candidate for the same office. Money orders are no longer mentioned in the law since cash transactions are authorized. The bill makes clear that no revenue from the Maine Clean election Fund may be pledged or applied to the collection of qualifying contributions.

The bill expands to 42 days the period before an election in which a paid communication is deemed to be an independent expenditure if it clearly

identifies a candidate on the ballot.

The bill also adds a private funding option for candidates. Before April 15 of an election year, a candidate whose campaign is supported by private contributions may elect to be covered by the matching fund protections of the Clean Election Act if the candidate agrees to limit, and does, in fact, limit campaign contributions and expenditures to the amount that would be authorized for distribution to the candidate if the candidate were qualified as a Clean Election candidate. A candidate making such an election shall be entitled to public matching funds in the same fashion as though the candidate had qualified as a Clean Election candidate.

**Hon. Richard A. Bennett**  
**75 Bennett Lane**  
**Oxford, Maine 04270**

June 27, 2008

Maine Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, Maine 04333

Dear Commissioners:

I am pleased to have the opportunity to write in support of Maine's Clean Election law. As a citizen and as a former President of the Maine Senate, I believe the law has served Maine people well, and the system should be preserved and protected for the upcoming gubernatorial race in 2010.

The Maine Clean Election Act is a success and serves a national model. The law embodies the highest principles of democracy by opening the door to elected office to many people who are either not inclined to engage in the private fundraising that is otherwise required of candidates or wealthy enough to fund their own campaigns. More candidates are running, and many more citizens are participating in the funding of our elections.

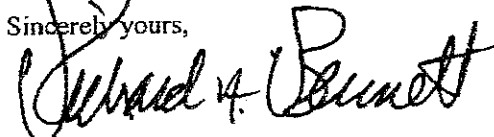
The Commission and the Legislature must be mindful of the fact that the Maine Clean Election Act is a citizen initiative that was passed with the majority support of voters in 1996. It has enjoyed strong support for more than a decade. The initiative contained a responsible and adequate funding mechanism, and it provided Clean Election funds for all legislative and gubernatorial candidates who qualify.

Since it went into effect in 2000, successive Legislatures have made mostly minor changes to make sure the system works well. Most changes have been in keeping with the intent of the law. One exception is using Clean Election Funds to balance the state budget – this use of designated funds is not in keeping with the “special, dedicated non-lapsing fund” that is defined in the law.

An attempt to undermine the intent of the law by radically altering or eliminating the gubernatorial system runs counter to the will of Maine voters. In my view, the intent of Maine voters must continue to be respected by sustaining both the legislative and gubernatorial systems and ensuring that they are funded as prescribed by the law. I urge the Commission to staunchly defend the integrity of this important, citizen-initiated statute.

Thank you for your attention.

Sincerely yours,



Richard A. Bennett

# Maine Citizens for Clean Elections

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(207) 664-0696 Ann Luther, Co-Chair  
(207) 879-7440 Alison Smith, Co-Chair  
(207) 799-1596 Jill Ward, Program Director

## **Testimony before the Commission on Governmental Ethics and Election Practices**

Re: Qualifications for Maine Clean Election Act Gubernatorial Candidates

Alison Smith, Co-Chair, Maine Citizens for Clean Elections

June 27, 2008

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On behalf of Maine Citizens for Clean Elections (MCCE), a coalition of individuals and organizations committed to the continued successful implementation of the Maine Clean Election Act (MCEA), I am pleased to submit testimony with respect to the MCEA's gubernatorial public funding system.

### **Public funding in the gubernatorial race is important, and it is integral to the Clean Election system.**

Let me begin by stating clearly that, to anyone concerned about the role of special interest money in Maine elections, the race for governor is by far the single most important race. The governor is our only popularly elected statewide state official. The governor's office is unarguably the most powerful in the state, and the case can be made that reducing the influence of private money on this highest state office is among the MCEA's most important functions.

The gubernatorial public funding system is a critical and integral component of the Maine Clean Election Act. It is not in any way separate from the legislative system. Maine voters created and passed into law a program that provides limited public dollars to all candidates for state office who qualify for funding. Although we have heard legislators say that the gubernatorial system was an "add-on" to the citizen-initiated law, this is simply not true. It is and always was one system, one Fund, one program for all state races.

### **The gubernatorial system benefited from an exhaustive review in the 123<sup>rd</sup> Legislature.**

MCCE understands that it is important to continually examine the law and its implementation to ensure it is working as Maine voters intended. Both this Commission and the Legislature have taken their evaluation roles seriously ever since the law went into effect, and MCCE has participated in every legislative and administrative review.

After the 2006 election, both the Ethics Commission and the Legal and Veterans Affairs Committee conducted many hearings and work sessions, discussed countless policy proposals, and engaged the public, including our coalition, in an exhaustive evaluation of the 2006 election cycle. The problems that were experienced in the gubernatorial race

*Maine Citizens for Clean Elections is a nonpartisan coalition of individuals and organizations that have worked together to help pass Maine's Clean Election Act and that continue to work together to support and defend its use and the integrity of its implementation. Its organizational members include AARP, Common Cause Maine, the League of Women Voters of Maine, Maine AFL-CIO, Maine People's Alliance, NAACP-Portland, Maine Council of Churches and Peace Action Maine.*

due to the behavior of several candidates created an appropriate sense of urgency among lawmakers and informed every discussion.

The result was that significant changes were made, including making it harder to qualify for gubernatorial funding and giving the Commission specific authority to decertify candidates. Obviously, there has been no opportunity to test these changes, so there is no evidence on which to base a case for need of the sorts of additional changes that are contemplated in the Commission's June 3<sup>rd</sup> memo. For the most part, the ideas in that memo were considered by the 123<sup>rd</sup> Legislature and either adopted or rejected. For example, the number of Qualifying Contributions was raised by a substantial 30 percent, but lawmakers declined to institute mandatory Seed Money or equalizing the length of the qualifying period for unenrolled and party candidates.

### **What is the rationale for further review prior to the 2010 election?**

The Commission would do well to consider why there is such unprecedented attention being given to the gubernatorial system at this time. We believe it springs from several different concerns. First, the Legislature is concerned about the cost of the program. Second, there is anxiety that a so-called "fringe" candidate may qualify, wasting taxpayer dollars. These are both legitimate concerns and are important elements of any policy discussion and are more fully discussed below.

Other concerns provide less solid ground for policy changes. There is general unease about the state of the economy, for example, but this is not a problem that can be addressed through tweaks to the Clean Election program. There is also some residual resistance to the concept of public funding itself. This opposition, by itself, is no basis for policy revisions.

It is important to remember that opponents of public funding lost the fight in 1996 when the referendum passed with 56 percent of the vote, and they lost again in 2000 when the state won the federal lawsuit that sought to overturn the law. While each successive legislature has thoroughly debated the merits of the program and addressed concerns, each election cycle has revealed a high level of satisfaction among candidates and the general public. We have a successful program that remains a model for constitutional, workable reform.

### **Funding the Clean Election program**

Legislators sometimes complain to us that Maine voters approve expensive programs and leave it up to legislators to fund them, but this is not the case when it comes to Clean Elections. The voter-approved Maine Clean Election Act contains a responsible, incremental funding mechanism that has proven adequate to fund the full program through 2010. Our current funding challenges arise wholly because successive legislatures and governors spent monies in the Clean Election Fund on other state programs.

This action has subjected elected officials to much criticism from the editorial pages and from Maine people, and that pressure has ensured that adequate monies were returned in time for the 2006 and 2008 election cycles. Although we have to remind them of their obligation every year, there is widespread consensus that those funds were borrowed, and the intent was always to return them to the Fund. This year's supplemental budget contained language calling for the restoration of much of the remaining borrowed funds in the 2010 and 2011 budgets. This will go a long way toward ensuring sufficient resources for the 2010 election. If there is a gap to fill in that cycle it will be much smaller thanks to this language and to the efforts of many rank and file legislators who made the case in their caucuses that the will of Maine voters must be honored.

Despite these facts, we continue to hear from legislators that the gubernatorial program costs too much. In fact, the distribution amounts were set by the Legislature in a change to the original law, and the Legislature seems satisfied with these levels. The only real attempt to lower the cost of the program has come from legislators who think the state should fund fewer candidates. Proponents of this idea have made different proposals that have one thing in common. All aim to make it harder for candidates who do not belong to one of the two major parties to receive public funds; some impose additional qualifications and others simply raise the bar higher for those candidates. MCCE has consistently opposed proposals that seek to implement a tiered system based only on major party affiliation.

### **The “fringe” candidate concern**

MCCE fully supports the notion that the qualifying process must serve to separate the viable candidates from the nonviable ones. Candidates must demonstrate that they have the support of a substantial number of Maine voters in order to receive funding. That being said, Maine's electoral history simply disproves the notion that third party and independent candidates are always less viable than those in a major party.

While we think it is wrong to make policy based on a faulty assumption – that all non-major party candidates are probably “fringe” candidates – we agree that the bar must not be set too low, especially in the gubernatorial race. The sums received by candidates are appropriate for those who are prepared to run a serious statewide race with at least the potential for broad appeal. Maine has a rich history of quirky, one-issue candidates who bring something unique to the race, but who are not serious enough about winning to actually build the organization necessary to run a viable campaign. The qualifying process has so far been successful at sifting out those candidates, and MCCE is in favor of rigorous evaluation to make sure that in each cycle, the qualifying hurdle is set at the right height.

### **Changes made by the 123<sup>rd</sup> Legislature**

During the 2006 gubernatorial race, concerns were raised that it was too easy for candidates to qualify. The legislature responded to this concern by raising the qualifying bar from 2,500 to 3,250 Qualifying Contributions – a 30 percent increase over 2006.



Reports we have received indicate that this higher threshold will be difficult to meet, as was the earlier, lower threshold. Every candidate who has successfully qualified, both in 2002 and 2006, has said it was a very difficult process. Many other candidates tried and failed to complete the process because they didn't have the support or the organizational capacity necessary.

MCCE believes the increase in the number of Qualifying Contributions was appropriate, and we think it is sufficient. Of course, there is no way to test this until the 2010 election, but 30 percent is certainly a significant increase.

The legislature also put more tools in the Ethics Commission toolkit that we believe will strengthen the Commission's ability to identify non-viable candidates. There is more accountability in the use of money orders, for example. Importantly, the Commission now has specific authority to decertify candidates under certain circumstances, and MCCE strongly supports this measure. Every gubernatorial candidate engaged in the qualifying process will understand from the beginning that their campaign will be subject to a rigorous audit. New restrictions on paying themselves, family members and businesses they own will ensure that no candidate is able to use Clean Election funding as a personal enrichment scheme.

In 2007, the legislature also permitted candidates to accept Qualifying Contributions over the Internet. We support this change and think it appropriately recognizes the growing use of the Internet by the public. It is also a cost-effective way for candidates to reach supporters and engage new voters in the electoral process.

There is some anxiety that this new candidate tool will make it much easier to gather Qualifying Contributions and possibly introduce new avenues for nonviable candidates to game the system. These concerns did not pan out in the legislative races this year. Only three Senate candidates and 13 House candidates collected half or more of their Qualifying Contributions online, though 243 candidates in total received at least one on-line. What participating candidates have told us is that even though it is a convenient option, it takes more than an email to get people to act. While we are mindful that the online option became available fairly late in the qualifying period, we are unconvinced that offering the online option has taken the challenge out of the qualifying process. We don't see evidence that further action must be taken prior to 2010 to reset the qualifying bar because of this change.

### **Keeping the system viable**

MCCE is not prepared to endorse any additional statutory changes to the gubernatorial qualifying process at this time, feeling that the changes made by the 123<sup>rd</sup> Legislature adequately address the problems that were seen in 2006. Our system is basically sound, and there is no evidence to suggest that the law must be rewritten or the process changed radically. We are especially skeptical of changes that would replace Maine's tested system with elements of other states' laws whose success is yet unproven and where there are unresolved constitutional challenges. In addition, the later changes are made in the

cycle, the more difficult it is for candidates to make an informed choice about how to fund their campaigns. Potential candidates are wrestling with that decision right now and are likely to make up their minds within the next 6 months to a year, so this is no time to make big, fundamental changes.

As this process unfolds, we will actively engage in all public discussions to make sure the public interest is upheld. We will oppose changes that codify an advantage for major party candidates. We will consider changes that are relatively uncomplicated, enhance the viability of the system and are consistent with the principles that underlie the Maine Clean Election Act.

### **Non-statutory change to enhance viability: Raise the Seed Money cap**

As important as it is to keep “fringe” candidates from receiving public funds, it is equally critical to ensure that the Clean Election option appeals to Maine’s strongest, most viable gubernatorial candidates.

While we believe the timing is not right for statutory changes, we do want to recommend that the Commission begin the rulemaking process to increase the Seed Money cap for gubernatorial candidates. The cap that is in effect today is \$50,000, an amount that was set back in the early 1990s when the law was drafted.

We have not heard legislative candidates complain that their seed money caps are inadequate, but the issue has been raised in our conversations with potential gubernatorial candidates. It is a concern worth addressing, since Seed Money is the only money available to candidates as they prepare to run for a statewide race and before public funds are received in the spring of 2010.

The statute specifically permits the Commission to revise the seed money amounts by rule in order to “ensure the effective implementation of this chapter.” We believe that raising the Seed Money cap will do just that by enhancing the attractiveness of the Clean Election system to strong candidates for governor. The change is in keeping with the higher costs for everything from gasoline to printing as well as the significantly higher qualifying threshold that 2010 candidates will be asked to meet.

If this change is made, the contribution limit for Seed Money will remain at \$100 per donor, ensuring that no individual donor wields undue influence. Corporations and political action committees will still be barred from making Seed Money contributions. It will still remain exactly what it is supposed to be: limited private money that candidates may raise early in their campaigns to get the campaign off the ground and successfully fulfill the requirements of the qualifying process.

Raising the Seed Money cap does not increase the cost of the Clean Election program. Any unspent Seed Money is deducted from the initial distribution, ensuring that candidates start out on a level playing field.

MCCE believes there is little harm in substantially increasing the Seed Money cap. Candidates must be able to raise and spend adequate resources to lay the groundwork for a successful campaign. The existing individual contribution and source limits ensure that this change will not allow big special interest money into Clean Election races.

For the purpose of kicking off your discussion, we suggest doubling it to \$100,000.

The rulemaking process will provide ample opportunity for interested parties to be heard, both on the merits of the change in general and on the specific amount, and we encourage the Commission to begin that process very soon.

### **Conclusion**

We do not foresee the day that the Commission and the Legislature will stop scrutinizing the Clean Election program. As is true of all public programs, rigor must be used to ensure that public dollars are well spent, and that the purpose of the program is being fulfilled. Evaluation is important both for accountability to the public and for guidance to lawmakers as they contemplate changes to the law.

Given the thorough examination and substantial changes that were made this year and last, we ask the Commission to keep in mind these three words: **Do no harm.**

Thank you for the opportunity to comment. We are happy to answer questions about any proposals that are under consideration today.



# LEAGUE OF WOMEN VOTERS OF MAINE

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Augusta, ME 04332-0863

(207) 622-0256  
lwvme@gwi.net

TO: The Commission on Governmental Ethics and Election Practices

RE: Testimony on Maine Clean Election Act Qualifications for Governor

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The League of Women Voters urges you today to support continued public funding for candidates for governor in 2010 and beyond. We believe that failure to retain the public financing system for Maine's gubernatorial candidates would be a breach of public trust and an enormous loss to the public good.

The Maine Clean Elections Act was a landmark reform that appeared on the ballot in 1996, a Presidential election year when Maine ranked #1 nationwide in voter turnout. This measure passed with 56% of the vote. More Maine voters (320,755) said "yes" to this ballot question than have voted for any winning gubernatorial candidate in the last fifteen years.

Despite the fact that the MCEA provided a separate and discrete funding mechanism to support public financing, the financial stability of the program has already been eroded through past borrowing from, and failure to repay, the Maine Clean Elections Fund. The Maine Clean Elections Fund should be fully funded, and borrowed funds should be restored.

The League of Women Voters believes in public funding for elections at both the national and state level. The League's position on Campaign Finance reflects our continuing concern for open and honest elections and for maximum citizen participation in the political process. The League's position is that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and allow maximum participation in the political process.

The MCEA works to accomplish these important goals. Maine's public financing system is an exemplar of good government practice to be emulated in other states around the country and at the federal level. The annualized cost of public financing in Maine is truly modest in light of the fundamental public benefit it provides.

We urge you to recommend in support of continued public funding of gubernatorial candidates under the Maine Clean Elections Act.

Ann Luther, President  
League of Women Voters of Maine  
June 27, 2008

The League of Women Voters has been a leader in seeking campaign finance reform at the state and federal levels for more than three decades. The League was a founding member of the coalition now called Maine Citizens for Clean Elections that worked to pass the landmark Maine Clean Elections Act just over ten years ago.

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Founded in 1920, the League of Women Voters is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major political policy issues, and influences public policy through education and advocacy.



June 27<sup>th</sup>, 2008

TO: Maine Commission on Governmental Ethics and Election Practices  
FROM: Jon Bartholomew, Common Cause Maine  
RE: Gubernatorial Clean Elections system

Common Cause Maine first would like to thank the Commission for the opportunity to weigh in on the future of the gubernatorial element of Maine's Clean Election program. Common Cause Maine was one of the founding members of the Maine Citizens for Clean Elections coalition and remains to this day active on this issue. Indeed, we have been working around the country to establish similar laws based on Maine's success.

In general, we want to go on record strongly supporting a viable system for candidates for Governor to use public financing for their campaigns. The office of the Governor is the most powerful and influential position in state government, and is also the most likely to draw the influence of special interests. Therefore it is imperative that the system that has so effectively taken the influence of big money out of the legislature also be an option to remove big money from the race for Governor. Gubernatorial Clean Elections has worked very well in Arizona for two elections now, and there is a good chance our next Governor could be publicly financed – as long as the option exists for the candidates. This is indeed a good thing for Maine's democracy as it would truly be a race about issues, qualifications and leadership instead of who can raise the most money for TV ads.

There will be many proposals for ways to move forward on this issue. Many will be good ideas, some bad, and some with unknown results. We will work closely with the rest of the Maine Citizens for Clean Elections coalition on determining what we support and what we do not. But there has been one idea put on the table that we must emphatically oppose – that of defunding the Gubernatorial Clean Elections program. Even a one-time suspension of the program is something we will not tolerate. While some may say that we can not afford to fund this program, I say we can not afford to NOT fund it. In terms of the overall state budget, the savings would be minimal but what we gain by having publicly financed candidates for Governor is priceless.

Thank you for your consideration of our position on this matter.

Jon Bartholomew  
Common Cause Maine

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June 27<sup>th</sup>, 2008

TO: Maine Commission on Governmental Ethics and Election Practices  
FROM: Jesse Graham, Maine People's Alliance  
RE: Gubernatorial Clean Elections system

On behalf of the Maine People's Alliance (MPA), I am pleased to submit testimony in support of the Maine Clean Elections Act's gubernatorial system.

The Maine Clean Election Act was passed as a citizen initiative in 1996 with the support of more than 56 percent of the Mainers who voted. The idea behind the law is to sever the connection between private money and public office and it allows candidates to run for office without engaging in extensive fundraising or spending their own money, thus making a run for office accessible to the average Mainer. The law has been extremely successful in legislative races and must be preserved for those interested in running for Maine's highest office.

MPA strongly supports the MCEA gubernatorial system and believes that it is a critical component of the law passed by Maine voters in 1996. While it is important to continually examine the law and its implementation to ensure it is working as Maine voters intended, we think the changes made to the qualifying requirements by the 123<sup>rd</sup> Legislature are meaningful and should be given the opportunity to work in 2010.

Gubernatorial public funding is threatened because successive governors and legislatures borrowed money from the Maine Clean Election Fund to use for other purposes. As part of the MCEA, voters approved a responsible mechanism for funding the system that would have ensured sufficient resources through 2010. Changes to the gubernatorial system should not be predicated on a challenge that does not represent a deficiency in the law. The legislature has rightly committed to restore the Fund in the next legislative cycle and we believe this is the appropriate course of action to ensure the integrity of the system.

We feel strongly that public financing be available to qualified candidates who seek Maine's most important office and will oppose any attempts to undermine the Clean Elections gubernatorial system.

Sincerely,

Jesse Graham  
Executive Director  
Maine People's Alliance